

Waste Compliance and Mitigation Program Staff Report
 New Solid Waste Facilities Permit for the
 West Contra Costa Sanitary Landfill Organic Materials Processing Facility
 SWIS No. 07-AA-0044
 May 17, 2010

Background Information, Analysis, and Findings:

This report was developed in response to the Contra Costa County Local Enforcement Agency (LEA) request for Department of Resources Recovery and Recycling (Department or CalRecycle) concurrence on the issuance of a proposed new solid waste facilities permit for the West Contra Costa Sanitary Landfill Organic Materials Processing Facility (OMPF), SWIS No. 07-AA-0044, located in Contra Costa County, owned and operated by West Contra Costa Sanitary Landfill. A copy of the proposed permit is attached. The report contains Waste Compliance and Mitigation Program (WCMP) staff's analysis, findings, and recommendations.

The proposed permit was received on March 26, 2010. A revised proposed permit with minor modifications was received on May 10, 2010. Action must be taken on this permit no later than July 9, 2010. If no action is taken by July 9, 2010, the Department will be deemed to have concurred with the issuance of the proposed new permit.

Proposed Project

Following are the parameters of the proposed project:

	Proposed Permit
Activities	New compostable materials handling and transfer/processing facility
Permitted Area	40 Acres
Permitted Hours/Days of Operations	7 days/week Hours: Self Haul Waste Receiving - 24 hours/7 days a week; Franchise/Non-Franchised Commercial Waste Receiving – 24 hours/7 days a week; Waste Processing - 5:00 a.m. to midnight – 7 days a week; Recovered Materials Load-out and Hauling - 24 hours/7 days a week; All Other Site Maintenance – Related Operations - 24 hours/7 days a week; Equipment Maintenance – 5:00 a.m. to 10:00 p.m. – 7 days a week; Composting – 24hours/7 days a week
Permitted Tons per Operating Day	1,134 tons/day maximum: 630 tons/day organics 504 tons/day wood wastes 196 tons/day not to exceed the annual peak of 51,000 tons/year of wet wastes/dusty materials: 31,000 tons/year dry dusty wastes 20,000 tons/year wet wastes
Permitted Traffic Volume	1,559 vehicles per day
Waste Types	Green waste, construction and demolition waste, bio-solids, food waste, wet waste, powdery waste, mixed waste paper, wood waste,

	manure, agricultural waste.
Facility Design Capacity	1,134 tons per day – Composting
Throughput	51,000 tons/year – Transfer/Processing

The proposed project also includes the following:

- The total size of the OMPF is proposed to be 40 areas. The Report of Facility Information (RFI) makes reference to a flexible boundary between the Concrete/Asphalt Recycling Facility, which is an Inert Recycling Facility, excluded from LEA oversight located at the western boundary of the OMPF. Occasion stored materials from the Concrete/Asphalt Recycling Facility will overlap into the permitted OMPF boundary and will reduce the area available for processing material. This reduction in available area will not change the permitted boundary. Appendix G - provides a summary of the Concrete and Asphalt Debris Operation Plan as part of the RFI and is provided in an effort to describe the activities of the adjacent Concrete/Asphalt Recycling Facility. Only the portion that describes the situation of material storage within the boundary of the OMPF is applicable.
- Appendix H provides a summary of the Soil Reclamation Facility Operations also found adjacent to the facility and also excluded from regulations. Even though the summary describes all the activities to occur under the reclamation operation, only one of the activities listed will be occurring within the OMPF boundary. The only soil reclamation operation that will occur within the OMPF boundary is the receipt of non-hazardous (or as stated in the RFI, “non-contaminated”) random type of soils. The mechanical processing of the soil would be conducted on unused portions of the OMPF.
- Per the RFI (page 16) no more than 305,000 cubic yards of material associated with compostable material handling will be on-site at any given time.
- The "Large Pile Composting" referred to in the RFI will be turned at the same rate and frequency as the windrows and consistent with the regulations for turning windrows, 5 times each 15 days and maintaining 122 degrees Fahrenheit. The "Large Pile Composting" as with the windrows will not be turned or screened when the wind is blowing inland exceeding 20 miles per hour toward developed areas. The "Large Pile Composting" will also be turned to avoid anaerobic conditions in the pile.
- A mobile conveyor belt sorting system will be used only in Area 2 of the OMPF pursuant to page 18 of the RFI.
- Powdery/Dusty waste will include non-hazardous waste limited to bags with paint dye dust, waste perlite and vermiculite, foundry sands, bag house fines and waste soil, as conditioned in the permit - 17 m.

Findings:

All submittals and findings required by Title 27, Section 21685 have been provided and made. Staff have determined that California Environmental Quality Act requirements have been met to support concurrence. The findings are summarized in the table below. The documents on which staff's findings are based have been provided to the Deputy Director with this Staff Report and are permanently maintained in the facility files maintained by the Waste Compliance and Mitigation Program.

CCR Title 27 Sections	Findings	
21685(b)(1) LEA certified complete and correct Report of Facility Information	The LEA provided the required certification in their permit submittal letter dated March 26, 2010.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(3) Solid Waste Facility Permit	The LEA submitted a proposed solid waste facilities permit on May 10, 2010. See comments below.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685 (b)(4)(A) Consistency with Public Resources Code 50001	The LEA in their permit submittal package received on March 26, 2010 provided a finding that the proposed SWFP and the RFI are consistent with the County Integrated Waste Management Plan. The WCMP staff in the Jurisdiction Compliance and Audit Section found the proposed permit to be conformant with the Non-disposal Facility Element (NDFE), and the OMPF is sufficiently identified in the NDFE as described in their memo dated March 11, 2010.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(7) Operations Consistent with State Minimum Standards	WCMP staff in the Compliance, Evaluations, and Enforcement Division found that the facility was in compliance with all operating and design requirements during an inspection conducted on April 14, 2010. See compliance history below for details.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(8) LEA CEQA finding	The LEA provided a finding in their permit submittal package received on March 26, 2010 that the proposed permit is consistent with and supported by the existing CEQA documentation.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21650(g)(5) Public Notice and or Meeting, Comments	The LEA posted the public notice dated February 18, 2010, regarding the proposed new permit. No comments were received by the LEA or WCMP staff.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
CEQA determination to support responsible agency's findings	The Department is a responsible agency under CEQA with respect to this project, a proposed new solid waste facilities permit. WCMP staff have determined that the CEQA record can be used to support the Deputy Director's action on the proposed new permit. See details below.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable

LEA Permit Condition 17(n) states, "The operator shall pay all tonnage and other applicable fees to the LEA as required by Contra Costa County ordinance and fee resolution." Staff understand that this condition arises due to implementation concerns associated with a County ordinance that authorizes the LEA to impose a fee on solid waste disposed in the County. (PRC § 43213 authorizes such ordinances.)

PRC § 44012 directs enforcement agencies, when issuing or revising solid waste facilities permits, to give primary consideration to protecting public health and safety and preventing environmental damage, with the long-term protection of the environment as their guiding criterion. PRC § 44014 provides that a solid waste facilities permit shall contain all of the terms and conditions which the EA determines to be appropriate for the “operation” of the solid waste facility. Section 21663, subd. (a), of Title 27, California Code of Regulations, interprets and implements both statutes. That regulation specifies that “the solid waste facilities permit shall contain such conditions as are necessary to specify a design and operation for which the applicant has demonstrated in the proceedings before the [enforcement agency] the ability to control the adverse environmental effects of the facility.” “Design” means generally the “layout of the facility,” the “facility’s physical configuration.” “Operation” means generally the “procedures, personnel, and equipment” used to handle the solid waste the facility receives and to control the facility’s impact on the environment. 27 CCR, § 21663(a)(1), (2). It does not appear that these statutes and this regulation are intended to encompass conditions relating to the solid waste facility operator’s obligation to pay a disposal fee to the County pursuant to a County ordinance.

Nonetheless, CalRecycle’s role in concurring in or objecting to solid waste facilities permits proposed by enforcement agencies is a limited one. PRC § 44009(a)(2) specifies the several grounds on which CalRecycle may, and must, object to a proposed permit. The enforcement agency’s imposition of a condition that is not specific to design and operation or environmental protection is not one of those grounds. In particular, Section 21663, which requires conditions to assure the design and operation of the facility will control the environmental effects of the facility, is not a “State minimum standard” adopted pursuant to PRC § 43020. (See generally 27 CCR §§ 20510 – 20945 for standards applicable to active landfills, such as this facility.) Accordingly, staff recommends that you disregard Condition 17(n) in making your decision to concur in or to object to the permit proposed for this facility.

Compliance History:

Currently, on the 40 acres the applicant/proposed operator is operating a green waste composting operation under an EA Notification. The facility was inspected by WCMP staff in the Compliance, Evaluation, and Enforcement Division on April 14, 2010. No violations or areas of concern were noted.

Following is a compliance history of the green waste composting operation within the last five years. In 2005 and 2006, no violations were noted. In 2007, one violation of the State Minimum Standards for physical contaminants was cited. Six violations of the State Minimum Standards cited in 2008 were for physical contaminants. No violations were noted in 2009 and 2010 (January-March).

Environmental Analysis:

State law requires compliance with the California Environmental Quality Act through the preparation, circulation and adoption/certification of an environmental document and mitigation reporting or monitoring program or by determining that the proposal is categorically or statutorily exempt.

The Contra Costa Community Development Department (CCCDD), acting as Lead Agency, has prepared the following environmental documents for the Organic Materials Processing Facility, SWIS No. 07-AA-0044, located at the West Contra Costa Sanitary Landfill.

- A Draft Environmental Impact Report (EIR) State Clearinghouse No. 2002102057 was circulated for a 45-day review period from November 5, 2003 through December 19, 2003.
- The Final Environmental Impact Report was certified by the Contra Costa County Board of Supervisors on July 13, 2004. A Notice of Determination was filed with the State Clearinghouse on November 5, 2004.
- An Addendum to the EIR was prepared in 2008, and filed with the Contra Costa County Clerk on January 30, 2009.

The Local Enforcement Agency, Contra Costa Environmental Health Department has provided a finding that the proposed Solid Waste Facilities Permit, and the RFI, are consistent with and supported by the environmental document cited above.

Staff further recommends the Environmental Documents cited above as adequate for the Director's environmental evaluation of the proposed project for those project activities which are within the Director's expertise and/or powers, or which are required to be carried out or approved by the Department.

The Department's role as a Responsible Agency under CEQA is more limited than the CCCDD's role as a Lead Agency in that a Responsible Agency may require changes in a project to lessen or avoid only the environmental effects of that part of the project it will carry out or approve, and may disapprove a project to avoid only the environmental effects of that part of the project it will carry out or approve.

Local Issues:

The California Environmental Quality Act record indicates no offsite cumulative environmental impacts. The project document availability, hearings, and associated meetings were extensively noticed consistent with the California Environmental Quality Act and Solid Waste Facilities Permit requirements. A review from the public process indicates that environmental justice issues were not identified by the surrounding community (Census Tract 3650.01). Census information indicates that the surrounding population is approximately 33.4% white, 45.3% black or African American, 0.2% American Indian & Alaska Native, 16.4% Asian, 0.3% Native Hawaiian & other Pacific Islander, and 0.7% "some other race" and 3.8% "two or more races". Approximately 11.4% of the total population described themselves as Hispanic or Latino. 8.1% of the families in the Census Tract were below the poverty level. Staff has not identified any environmental justice issues related to this item. Staff finds the project and permit process to be consistent with Government Code Section 65040.12, as there has been fair treatment of people of all races, cultures, and incomes with respect to the proposed action being recommended above.

Public Comments:

The LEA did not receive any comments from the posted public notice. No oral or written public comments have been received by the Department or LEA staff.

Department Staff Actions:

Staff called the LEA's attention to several items in the proposed permit and RFI. Staff worked with the LEA to address the outstanding issues and obtain further clarification in the proposed permit package.